

**SUPPLEMENTARY SUBMISSION NO. 43.1**  
**JOINT SELECT COMMITTEE ON CYBER-SAFETY**

ANSWERS TO QUESTIONS ON NOTICE

**Australian Taxation Office**

Cybersafety for senior Australians

18 May 2012

**Question:**           **What processes do the ATO use to assure the public that they are being contacted by the ATO and not a scammer?**

**Hansard Page:**   **26**

**Question:**           **1**

**CHAIR:** How do you do that so that the people you are contacting do not think it is all part of the scam, so that they do not think they are they are being—

**Ms MARINO:** Double-scammed.

**Mr Gibson:** I am not sure what the processes are that we use there in terms of our identification. Can I come back and just validate what the protections are that we put in for the community there?

**CHAIR:** That would be great. Presumably, if this has gone by email, you are emailing people to say, 'Just ignore that—that is a scam—but tell us.'

**Mr Heather:** We telephone people, and our telephone processes have a proof of identity where we ensure that we are talking to the taxpayer that we want to.

**CHAIR:** But how do you ensure that they know that they are actually talking to the tax office?

**Mr Gibson:** We will clarify that. When we deal with tax agents on behalf of clients—because sometimes a tax agent's information has been compromised, which means there would be a broader range of taxpayers who would be at risk there—we have liaison units, and we have a much more personalised interaction with them anyway, so that would be part of the normal process there. But, having contacted the taxpayer and alerted them to this, we then are able, with their assistance, to validate the circumstances and the context. We encourage them then of course to go to their banks, insurance or whoever they deal with. Where we think a TFN, a tax file number, is compromised, we have ways of quarantining that, protecting that, so that, if any scammer comes through to try and have an erroneous refund issued and so forth, we stop that. We then move all of the taxpayer's information to a new TFN and work with them. It takes some weeks to do that, depending on the situation. Sometimes it is not time urgent and so we might take a little longer. But we work with them very closely to keep them across what we are doing there. We do not reuse that TFN. We flag it as something which has been compromised, so, if in future we get someone coming in with that, we realise it is false and a scam as well.

**Answer:**

When making calls to taxpayers, Australian Taxation Office (ATO) staff are required to provide their full name and the state that they are calling from. In most cases, no further identification is requested.

If the authenticity of the ATO officer is questioned, they will provide the taxpayer with options to call the ATO back via authenticated numbers. The taxpayer may call a phone number provided by the ATO officer, obtain a number from the ATO website or call the ATO switchboard and ask to be transferred to a specific staff member.

Alternatively, taxpayers who have enquiries about identity theft and compromised tax file numbers (TFNs), including those who have received a call from an ATO officer, can call the ATO's Client Identity Support Centre. The phone number for this service is available on the ATO website and the recorded greeting clearly identifies the ATO Client Identity Support Centre.

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The ATO uses a single client relationship management platform so that if a taxpayer chooses to contact any of the general enquiry lines, they will still be provided with the appropriate assistance. A proof of identity (POI) check is completed to protect the security of taxpayer information.

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**Question:** What are the statistics on how many seniors have been scammed?

**Hansard Page:** 26/27

**Question:** 2

**CHAIR:** Would your response team have any statistics that it might be able to give the committee regarding how many seniors have been scammed? That is if it has done an analysis.

**Mr Heather:** It has done an analysis of this. We could provide that information, yes.

**CHAIR:** That would be really helpful

**Mr Gibson:** We can see if we capture that in the way that you are requesting. We have seen it just as a broad attack at the moment—not targeting any particular demographic—but we are happy to go away and see if we have any further insight that we can provide to the committee.

**Answer:**

The Australian Taxation Office (ATO) does not capture statistics on who has been scammed or their demographics. Much of the ATO's intelligence relates to the nature of the scam rather than who has been affected.

The ATO has invested significant resources in analysing the methodology around various scams, however, specific target groups of scammers and individuals who fall victim to them is not available.

In rare instances where the compromised data is stored at an accessible location, there is the possibility that this data could be accessed. To date, this data has not been analysed to track trends in demographics.

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**Question:** How does legal liability apply in the case of these scams?

**Hansard Page:** 25 and 27

**Question:** 3

**Ms MARINO:** It also brings up the issue of who is actually liable if there is a loss. Is it the agent, or the owner, or the ATO or 'other'?

**Mr Gibson:** It raises huge questions. This is a very clever variation on what we are seeing. The reason we have only tabled them today is that we have only detected these in the last couple of weeks.

**CHAIR:** That leads to the question: what does the tax office actually do when they find out about something like this? Are you, for example, able to contact landlords or people who own the real estate to let them know that this is a scam?

.....

**Ms MARINO:** You touched on the third-party issue. From your point of view, should this involve the ATO directly, in a sense, or agents that may be used? I asked the question while you were talking about the potential liability issue. How do you think the actual liability needs to be explored where there is a third party involved?

**Mr Gibson:** I am unashamedly a computer person, so I am not really in a position to—I think it needs to be explored, but that others, whether it be Attorney-General's or that type of authority, would really be better able to look at it. We use intermediaries as part of our doing business. We use tax agents, tax preparers and so forth extensively. We deal through professional associations and accreditation authorities in that regard to make sure that the profession we are interacting with has the standing and the credentials. We do that as part of our normal course of work. In terms of liability, within the tax environment, I would need to take that on notice and get some of our people to look at it.

**Ms MARINO:** I think that would be useful for this committee. Given that you have raised this and it is going to be an ongoing issue not just for the ATO but third-party liability is obviously going to become an increasing issue for a range of service providers and others, it is something that we need to have addressed. I think the liability issue is going to become a very real issue.

**Mr PERRETT:** Could I suggest we write to the Attorney-General about it, with all respect to the ATO. It is drifting into an area that would be outside of just the ATO and there would be other providers interacting with intermediaries as well.

**CHAIR:** Good suggestion, Mr Perrett.

**Answer:**

As noted by Mr Perrett at the hearing, the question of legal liability in relation to scams of the kind discussed is drifting into an area that is wider than just the Australian Taxation Office (ATO), and the ATO notes that writing to the Attorney-General about it was considered by the Chair to be a good suggestion.

While the ATO does not purport to provide legal advice in relation to the issue, the ATO's understanding is that where a taxpayer is defrauded by a tax agent and their taxation 'identity' is compromised, there is no liability against the ATO. Tax agents are agents of the taxpayer, not the ATO and their conduct is regulated by the Tax Practitioners Board.

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**Question:** Of the scams that have been detected, have there been any attempts to track offenders, and have there been any successful prosecutions?

**Hansard Page:** 27/28

**Question:** 4

**Mr ZAPPIA:** My second question is: in respect of the scams that have been detected, have there been any attempts made to track the offenders, and have there ever been any successful prosecutions?

**Mr Gibson:** I would need to go to our Serious Non-Compliance group, who keep track of these things. Again, on that particular detail, I am more than happy to provide the information. I just do not have it at my fingertips at the moment, though.

**Mr ZAPPIA:** Thank you.

**CHAIR:** Do you have a major fraud group?

**Mr Heather:** Yes.

**CHAIR:** Is that the same group Mr Gibson was just talking about?

**Mr Heather:** No, the group we were talking about is our ICT fraud investigations group.

**CHAIR:** So the major fraud group, whatever it might be called, is more broad?

**Mr Gibson:** Yes. They are complementary. We have the technology group, which is looking to identify it and work it out and inform our business colleagues. Then we have a group called Serious Non-Compliance, but they are looking at large tax fraud. But we do have another group called the Taxation Evasion Reporting Centre, and what they do is compile information around scam reports from telephone calls. I can provide a summary of that, although not now—I just got this today. I can give some examples of what is happening there, and some of it is really quite depressing because of the end results that impact the community. I can provide that.

### Answer:

The Australian Taxation Office (ATO) undertakes further analysis of scams (in the online environment) to identify and understand the methods and artefacts associated with the scam. Examples of the intelligence that the ATO has gathered include:

1. the compromised websites do not host malware
2. most scams do **not** store the compromised data on a website, it is generally sent to an email address
3. the exploitation, installation and testing of the scam sites originate mainly from Romanian IP addresses
4. there is one main scamming group responsible for the majority of ATO scams, with at least three other less active groups that occasionally send ATO scams. There are other one-off instances but they are less sophisticated
5. each group has a consistent look and feel to their automated mechanism to set up, install and execute the scam (exploit kit)
6. they employ standard methods in the exploitation of sites and the deployment of phishing kits.

As these groups are almost anonymous, there is very little chance of identifying offenders. Additionally, there are international jurisdictional issues as well as problems

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associating scams with the people involved. There have been no successful prosecutions to date.

The phone scams are perpetrated using Voice over Internet Protocol (VoIP) numbers which make them difficult to trace. It is assumed that the call-centre model utilised is located overseas. This is inferred by the various accents of the callers – indicatively India or a location in Asia. The ATO has responded to such a scam and played the part of a potential participant. The intelligence gathered from that activity was:

1. the scam was carefully scripted and required a small up front payment to receive a large tax refund. This was pitched as a reward for being a good taxpayer or as a stimulus package
2. the participants were required to send a money transfer of \$300 (this value may vary) to a name and address in India. The rationale given is that this is payment processing or that it goes to a charity
3. the scammers do not deviate from the script even when they are offered other attractive information such as credit card numbers
4. the initial call is now being automated and recipients are asked to call back on a VoIP number provided
5. the scammers are now also asking for tax file numbers (TFNs) and notices of assessment. The aim of this is to replicate standard ATO processes. They also perform a proof of identity (POI) checking process.

The ATO have more recently detected changes in the phone scams such as requesting personal identifiable information such as TFNs and drivers licences in lieu of a payment.

To date, the ATO have not tracked the offenders with a view to prosecution. Any potential prosecution would rely on a clear and direct correlation between the event and its effect on the affairs of the individual and/or the ATO.

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**Question:** Is there going to be an education campaign for taxpayers who will not have to lodge a tax return?

**Hansard Page:** 28/29

**Question:** 5

**Mr PERRETT:** From 1 July I think there will be about one million Australians who will not have to put in a tax return.

**Mr Gibson:** Yes, that is correct—as you retire and get to a point where your circumstances do not change.

**Mr PERRETT:** Lower paid Australians have previously had to put in a tax return to get smaller amounts. In future they will not have to do that? Have I understood the legislation correctly?

**Mr Gibson:** Yes, that is correct.

**Mr PERRETT:** I did vote for it! Is there an education campaign planned to make sure those people are aware of that? I assume the phishers want information and/or money. The phishers just want information rather than getting the actual cheque from someone, I guess. In terms of the breakdown of that bar graph with the 92 and the 224, are the 92 using other means to try and get money out of people?

**Mr Heather:** The 92 would be a range of other security incidents. It might be someone trying to break through our firewall. It might be someone with a password issue that we have uncovered. They are not necessarily scam related security incidents.

**Mr Gibson:** Someone might lose a laptop. Our laptops are all encrypted, but we would log that as an incident.

**Mr PERRETT:** Do you know if there is going to be an education campaign for those one million taxpayers who will not have to put in a tax return, or are they going to be within the normal process of taxpayers?

**Mr Gibson:** I will find that out. They will re-enter the tax system at some point in time as well. With our education and orientation programs, we target school kids under 18 years old. We are out in the school community telling them what their obligations are. So I am sure we have got all the material as to how we then target those people when they come back into the tax system. I can confirm that as well. But I do know that we have got a whole lot of education material that stresses obligations, risks and what you should do and what you should not do.

**Mr PERRETT:** It would be great to see that.

**Mr Gibson:** Okay.

### **Answer:**

The ATO is undertaking communication activities to ensure taxpayers understand whether or not they need to lodge tax returns.

Based on their annual taxable income, up to one million Australians will have incomes under the new tax free threshold and will no longer need to lodge a tax return. Some other individuals may end up with incomes under the threshold and need to lodge to collect a refund of tax withheld from salary or wages. These are likely to be people with uneven income patterns across the year.

The ATO is working with the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) to deliver a broad communications approach for this audience as part of the Government's Household Assistance Package. This communication has already commenced.

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The ATO has communicated to employers information about the changes to the tax-free threshold and tax rates so that they are able to effect these changes in their payroll processes. Information for employees has also been updated on the ATO website.

Messages outlining who needs to lodge a tax return are promoted to the broader community as part of the ATO's general Tax Time campaign.

The ATO's communications at Tax Time also include messages to the broader community on how they can protect themselves from scams. This includes:

- information provided through the ATO's Tax Help volunteers (community volunteers who assist low income earners with their lodgment obligations)
- the provision of information (including a brochure on scams) via the Department of Human Services - Centrelink and Medicare offices - during the lodgment season
- key messages for Indigenous, non-English speaking and New to Australia sectors of the community.

If people who no longer need to lodge tax returns because of the increased tax free threshold re-enter the tax system at a date in the future, they would then be exposed to the ATO's generic messages and communication approaches about cyber safety and scams.

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**Question:**           **What information does the ATO publish regarding the increasing instances of fraudulent tax returns and the amount of revenue protected each year?**

**Hansard Page:**   **27**

**Question:**           **6**

**CHAIR:** With the statistical analysis that you are going to seek for us, I would also be interested in knowing how much money might have been involved—if that is possible.

**Mr Gibson:** The thing is that we can be aware of the financial size of that exposure, but if someone has lost their identity and then their bank accounts have been depleted—people have robbed them of that—then we do not have that insight unless they volunteer that to us.

**CHAIR:** I do understand that, but it would be interesting to know just what the lay of the land is in regard to people being financially disadvantaged through this process is in regard to their tax.

**Mr Gibson:** What we do publish openly is year on year, where we have seen increases in fraudulent behaviour, we will publish in annual reports and so forth that we have detected a thousand of these, or whatever it is, and the amount of revenue we have protected. In other words, we have detected it and stopped it, and if we had not detected that then obviously that would have been a loss. I know we can definitely provide that to the committee.

**CHAIR:** That would be very helpful.

**Answer:**

The Australian Taxation Office (ATO) routinely publishes the instances of fraudulent claims for tax refunds in the Commissioner of Taxation Annual Report. In 2010-11, the ATO identified more than 34,600 potentially overstated or fraudulent claims for refunds. These were adjusted by over \$115.5 million.